IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1348 OF 2005
IN
SUIT NO.4443 OF 2001

Zohra Jabin Shaikh Sabir ....Plaintiff
V/s.
Kaniz Fatima Shaikh Akhtar & Ors. ....Defendants

Mr.T. Chunawala i/b Mr.R.B. Jaiswal for the Plaintiff.
Mr.Y.E. Mooman for Defendant No.1.
Mr.A.G. Toraskar for Defendant No.3.

**CORAM : S.J. VAZIFDAR, J.**
**DATED : 9TH JANUARY, 2006.**

**P.C.** :

1. The Chamber Summons has been taken out by the Plaintiff for an order directing Defendant No.1 to give inspection of various documents mentioned in the schedule thereto and for an order of striking of the defence in the event of the Defendant failing to do so.

2. At the hearing before me, Mr.Chunawala, the learned counsel appearing on behalf of the Plaintiff restricted his application to only certain documents as, he fairly stated, pursuant to the order dated 19th November, 2005 in Notice of Motion No.3128 of 2001 in this suit, Defendant No.1 had already given inspection of most of the documents.

3. The Plaintiff has sought inspection of rent receipts of the Worli property for the period May, 1999 to September, 2000. The Plaintiff has also sought inspection of the rent receipts of Dongri property for the period May, 1999 to January, 2001. Mr.Mooman, the leaned counsel appearing on behalf of Defendant No.1 states that all these rent receipts have been destroyed by termites and are therefore not in Defendant No.1's possession. The statement is accepted. The veracity of the statement is a matter to be decided at the hearing of the suit. It is in this view of the statement alone that an order for inspection is not granted. Had the documents been in existence, an order for inspection would have been granted.

4. Mr.Mooman also states that the documents at serial Nos.60 to 63 of the list of documents annexed Exhibit-3 to the affidavit in reply of the Plaintiff dated 19th December, 2005 has already been granted. However, with a view to leave no scope for dispute, he states that the inspection of the original of those documents shall be given to the Plaintiff in Defendant No.1's advocate office at 5.30 p.m. on 13.1.2006.

5. The Chamber Summons is accordingly disposed of.